

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF OREGON

3 PORTLAND DIVISION

4

5 WILLIAM X. NIETZCHE, solely as )  
trustee for KRME International )  
6 Trust, JULIE A. METCALF )  
KINNEY, and WILLIAM KINNEY, )  
7 JR., )  
)  
8 Plaintiffs, ) No. 3:18-cv-01930-SI  
)  
9 vs. ) September 20, 2019  
)  
10 FREEDOM MORTGAGE CORPORATION ) Portland, Oregon  
(FMC), et al, )  
11 )  
12 Defendants. )

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15 TRANSCRIPT OF PROCEEDINGS

16 (Telephone Conference)

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18 BEFORE THE HONORABLE MICHAEL H. SIMON

19 UNITED STATES DISTRICT COURT JUDGE

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23 Court Reporter: Ryan White, RMR, CRR, CSR/CCR  
24 United States District Courthouse  
1000 SW 3rd Avenue, Room 301  
Portland, Oregon 97204  
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## APPEARANCES

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1 (September 20, 2019; 10:00 a.m.)

2  
3 P R O C E E D I N G S  
4

5 THE CLERK: Good morning. I'd like to get your  
6 appearances for the record.

7 Do we have Mr. Nietzsche on the line?

8 MR. NIETZCHE: Greetings. Greetings. This is William  
9 X. Nietzsche.

10 Plaintiffs object to phone conference and any  
11 attempt to establish a nisi prius court over this court of  
12 record.

13 THE COURT REPORTER: What?

14 THE CLERK: Thank you.

15 And who do we have on the line for defendants?

16 MR. PURCELL: Good morning. This is Tom Purcell and  
17 Mike Farrell, both, Your Honor, on the line for Rushmore Loan  
18 Management Services, LLC, and US Bank as trustee.

19 MR. AGGREY: Good morning. This is Nathaniel Aggrey,  
20 attorney for the State of Oregon.

21 THE COURT REPROTER: I can't --

22 MR. SLOMINSKI: This is Terry Slominski representing  
23 Roman Ozeruga and Urban Housing. Also David Venables of my  
24 office is also on the line.

25 MR. KONO: Good morning. This is Kevin Kono on behalf

1 of MTGLQ Investors.

2 MR. KATZ: Good morning. This is Mark Katz for  
3 Goldman Sachs.

4 MR. WEINER: Good morning. This is Andrew Weiner on  
5 behalf of Terrance Slominski and Mark Passanante.

6 THE COURT REPORTER: Can you please tell them to get  
7 off speakerphone?

8 MS. HULTENG: Good morning. This is Meryl Hulteng on  
9 behalf of the HSBC and Beneficial entities.

10 MR. SALMON: Good morning. This is Peter Salmon on  
11 behalf of Clear Recon Corp.

12 (Indistinguishable crosstalk.)

13 THE CLERK: I'm sorry. Who was that?

14 (Indiscernible.)

15 MS. BARNARD: This is Nellie Barnard on behalf of  
16 Freedom Mortgage Corporation and MRS.

17 THE COURT: Who was before her?

18 THE CLERK: Who was before Ms. Barnard? I thought I  
19 heard another person trying to state their name.

20 UNIDENTIFIED MALE: Oh, no. I heard Clear Recon  
21 Corporation said they're defaulted. I don't know how  
22 they (indiscernible) party.

23 THE CLERK: Okay.

24 MR. LLOYD: This is John Lloyd for Defendant Goldman.

25 THE CLERK: Okay. Is there anyone else on the line?

1 All right. Thank you.

2 Your Honor, this is the time set for --

3 (Indistinguishable crosstalk.)

4 MS. KINNEY: -- Kinney, plaintiff.

5 THE CLERK: I'm sorry. Who was that?

6 MS. KINNEY: Greetings. This is Julie Metcalf Kinney,  
7 plaintiff.

8 THE CLERK: Thank you.

9 MS. KINNEY: I rearranged my schedule for this call.

10 THE CLERK: Okay. Your Honor, this is the time set  
11 for a telephone conference in civil case 18-19 -- got that  
12 number wrong --

13 THE COURT: 18-1930.

14 THE CLERK: -- 1930, Nietzsche, et al, versus Freedom  
15 Mortgage Corporation, et al.

16 Counsel, there's a court reporter present, so please  
17 be sure to state your name before you speak, and here's Judge  
18 Simon.

19 THE COURT: Good morning, everyone.

20 Before we get to the matter that I wanted to discuss,  
21 I heard Mr. Nietzsche say in the beginning that he objects to any  
22 attempt to convene a nisi prius court. And I want to ask  
23 Mr. Nietzsche, what's a nisi prius court?

24 MR. NIETZSCHE: That's of course a -- an inferior court  
25 that's agreed to by prior agreement. We don't agree to any

1 inferior court here. This is a court of record.

2 THE COURT: It's an English concept from the 19th  
3 century, and no one is trying to assert that this is a nisi  
4 prius court. So please keep your comments only to matters that  
5 are relevant. All right.

6 MR. NIETZCHE: Is this a court of record?

7 THE COURT: Yes. We have a court reporter taking  
8 everything down.

9 MR. NIETZCHE: No. Is this a court of record?

10 THE COURT: I answered your question, Mr. Nietzsche.  
11 I'm moving on to my other matters. Now --

12 MR. NIETZCHE: Okay. We have a court reporter present  
13 as well that's taking -- that's transcribing these matters as  
14 well.

15 THE COURT: Mr. Nietzsche? Mr. Nietzsche? Now let me  
16 move on to my other matters.

17 I'm telling everyone that I have a number of motions  
18 that have been filed. We have them fully briefed with the sole  
19 exception of a response to a motion to compel.

20 MR. NIETZCHE: No. Listen. I object --

21 THE COURT: No, no, Mr. Nietzsche.

22 (Indistinguishable crosstalk.)

23 MR. NIETZCHE: -- objects --

24 THE COURT: No, no, Mr. Nietzsche. You may --

25 MR. NIETZCHE: You will not be addressing all these

1 motions over a phone conference. We need our day in court. We  
2 object.

3 THE COURT: Mr. Nietzsche --

4 MR. NIETZCHE: Yeah. Objection. I don't know what  
5 you guys think you're running. This is a kangaroo show and it's  
6 not going down like that. We need our day in court.

7 THE COURT: Mr. Nietzsche, I will give you an  
8 opportunity to speak when I'm done speaking. You may not  
9 interrupt me. Do not speak while I am speaking. I will give  
10 you an opportunity to speak before this call is over.

11 Do you understand me?

12 MR. NIETZCHE: Quo warranto.

13 THE COURT: Do you understand me, sir?

14 MR. NIETZCHE: Quo warranto.

15 THE COURT: Do you understand me?

16 MR. NIETZCHE: No, I do not understand you. We  
17 understand our court of record --

18 MS. KINNEY: We do not understand.

19 MR. NIETZCHE: We do not understand you.

20 THE COURT: All right. So here's my order for right  
21 now. We have a number of motions that have been filed, some by  
22 Mr. Nietzsche, some by various defendants. There will be no  
23 further motions allowed to be filed until the pending motions  
24 have been resolved.

25 In addition, there will be no further discovery taken



1 until the pending motions are resolved. It is --

2 MR. NIETZCHE: You cannot squash [sic] a subpoena.

3 THE COURT: It is my --

4 (Indistinguishable crosstalk.)

5 MR. NIETZCHE: Yeah. You cannot squash a subpoena.

6 Only via a mandamus can squash this subpoena. You cannot squash  
7 this subpoena.

8 THE COURT: Mr. --

9 MR. NIETZCHE: Tell an officer and bring that shit  
10 with him.

11 THE COURT: Mr. Nietzsche, if you interrupt me one more  
12 time --

13 MR. NIETZCHE: You think (indiscernible) -- yeah. No,  
14 this is enough game playing.

15 THE COURT: Mr. Nietzsche --

16 MR. NIETZCHE: Yeah. No. What's (indiscernible) and  
17 aggressive is (indiscernible) -- huggers trying to take our  
18 land. Period.

19 THE COURT: Mr. Nietzsche? Mr. Nietzsche?  
20 Mr. Nietzsche? Can you hear me, sir? Mr. Nietzsche, can you hear  
21 me?

22 MR. NIETZCHE: Continue.

23 THE COURT: If you interrupt me one more time, I will  
24 hold you in contempt of court. I will give --

25 MR. NIETZCHE: I will hold you in contempt of court.

1 THE COURT: All right. This hearing is now over. It  
2 is the order of the court that no further motions may be filed,  
3 no discovery --

4 MR. NIETZCHE: This is a writ of error. This is a  
5 conference call. This is not what you think it was. We already  
6 objected.

7 He made a cry baby call about being served a subpoena.  
8 There's not -- he cannot squash this subpoena by an  
9 insubstantial order entered by you.

10 THE COURT: So there will be no further --

11 MR. NIETZCHE: (Indiscernible) be there or be squared.

12 THE COURT: There will --

13 MR. NIETZCHE: He will be there or be square or face  
14 (indiscernible) go to jail. (Indiscernible) on this case.  
15 The -- at this time, you are a co-conspirator with this case.  
16 We (indiscernible) --

17 THE COURT REPORTER: I can't understand him.

18 MR. NIETZCHE: -- for trespass on the case.

19 Do I make myself clear?

20 THE COURT: There will be no further motions entered  
21 in this case.

22 MR. NIETZCHE: Do you understand that you will  
23 be -- you are added to this instant (indiscernible) for trespass  
24 on the case.

25 THE COURT: I'm going to put you on --

1 MR. NIETZCHE: Period.

2 THE COURT: I'm going to put you on mute,  
3 Mr. Nietzsche, so --

4 MR. NIETZCHE: You're being added. You are a  
5 co-conspirator to this case.

6 THE COURT: All right. So thank you, Mr. Nietzsche.

7 There will be no further motions in this case until I  
8 resolve the pending motions. No discovery may be taken until I  
9 resolve the pending motions, and that will be all. And then my  
10 expectation is I'll try to get all pending motions resolved  
11 within the next 30 days.

12 Thank you, all. That --

13 MR. PURCELL: Your Honor?

14 (Indistinguishable crosstalk.)

15 THE COURT: Did someone else wish to speak?

16 MR. PURCELL: Yes, Your Honor. This is Tom Purcell.  
17 I just had a couple questions about the scope of the order.

18 I do have this subpoena here. We don't believe it was  
19 appropriately served. But I just want to clarify your order.

20 THE COURT: My order --

21 (Indistinguishable crosstalk.)

22 THE COURT: There is no -- all discovery in this case  
23 is stayed until I've resolved the pending motions.

24 MR. NIETZCHE: No, you cannot stay our discovery.  
25 Ninth Circuit, you have interlocutory -- interlocutory appeal.

1 You're locked down, Judge Simon, and added to this operative  
2 complaint. I'm sorry.

3 THE COURT: Did that answer your question,  
4 Mr. Purcell?

5 (Indistinguishable crosstalk.)

6 MR. NIETZCHE: -- court of record rests. There's no  
7 further proceedings in the court of record. You guys are  
8 stripped of your jurisdiction. This is in -- this is an  
9 interlocutory appeal to the Ninth Circuit.

10 THE COURT: All right. Well --

11 MR. NIETZCHE: Mandamus. (Indiscernible) or else go  
12 to jail. Yes.

13 THE COURT: Well, Mr. Nietzsche, so --

14 MR. NIETZCHE: Judge Simon, you are obstructing  
15 justice right now, Michael Simon. You have exceeded your  
16 jurisdiction and stepped outside your cloak of magistrate. Yes.  
17 You are only a magistrate in a court of record.

18 THE COURT: Mr. Nietzsche?

19 MR. NIETZCHE: You have no authority here.

20 THE COURT: Mr. Nietzsche, all of -- everything you  
21 have said has now been reported by the court reporter. It will  
22 be available to you for your appeal.

23 Good luck, sir.

24 We'll be in recess.

25 (The proceedings concluded at 10:09 a.m.)

## C E R T I F I C A T E

I certify, by signing below, that the foregoing is a true and correct transcript, to the best of my ability, of the telephonic oral argument heard via conference call, taken by stenographic means. Due to the telephonic connection, parties appearing via speakerphone or cell phone, speakers overlapping when speaking, speakers not identifying themselves before they speak, fast speakers, the speaker's failure to enunciate, and/or other technical difficulties that occur during telephonic proceedings, this certification is limited by the above-mentioned reasons and any technological difficulties of such proceedings occurring over the speakerphone at the United States District Court of Oregon in the above-entitled cause. A transcript without an original signature, conformed signature, or digitally signed signature is not certified.

DATED this 11th day of December, 2019.

*// Ryan White*

RYAN WHITE  
Registered Merit Reporter  
Certified Realtime Reporter  
Expires 9/30/2022  
Washington CCR No. 3220  
Expires 10/25/2020  
Oregon CSR No. 10-0419  
Expires 12/31/2020

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|---|--|--|
| <b>1</b>  | <b>8</b>   | <b>below</b> <sup>[1]</sup> - 13:3<br><b>Beneficial</b> <sup>[2]</sup> - 2:9, 5:9<br><b>best</b> <sup>[1]</sup> - 13:4<br><b>briefed</b> <sup>[1]</sup> - 7:18<br><b>bring</b> <sup>[1]</sup> - 9:9<br><b>Broadway</b> <sup>[1]</sup> - 3:10   |
| <b>10-0419</b> <sup>[1]</sup> - 13:24<br><b>10/25/2020</b> <sup>[1]</sup> - 13:24<br><b>1000</b> <sup>[2]</sup> - 1:24, 3:10<br><b>101</b> <sup>[1]</sup> - 3:3<br><b>10:00</b> <sup>[1]</sup> - 4:1<br><b>10:09</b> <sup>[1]</sup> - 12:25<br><b>111</b> <sup>[1]</sup> - 2:6<br><b>1162</b> <sup>[1]</sup> - 3:14<br><b>117</b> <sup>[1]</sup> - 2:18<br><b>11th</b> <sup>[1]</sup> - 13:18<br><b>12/31/2020</b> <sup>[1]</sup> - 13:25<br><b>1300</b> <sup>[1]</sup> - 2:14<br><b>18-19</b> <sup>[1]</sup> - 6:11<br><b>18-1930</b> <sup>[1]</sup> - 6:13<br><b>1900</b> <sup>[1]</sup> - 3:7<br><b>1930</b> <sup>[1]</sup> - 6:14<br><b>19th</b> <sup>[1]</sup> - 7:2 | <b>858</b> <sup>[1]</sup> - 2:23   |  |
|   | <b>9</b>   |  |
|   | <b>9/30/2022</b> <sup>[1]</sup> - 13:23<br><b>914-2015</b> <sup>[1]</sup> - 2:19<br><b>92117</b> <sup>[1]</sup> - 2:22<br><b>947-4700</b> <sup>[1]</sup> - 3:15<br><b>968-2505</b> <sup>[1]</sup> - 3:4<br><b>97201</b> <sup>[1]</sup> - 2:14<br><b>97204</b> <sup>[4]</sup> - 1:24, 2:7, 2:11, 2:19<br><b>97205</b> <sup>[1]</sup> - 3:11<br><b>97223</b> <sup>[1]</sup> - 3:4<br><b>97301</b> <sup>[1]</sup> - 3:15  |  |
|   | <b>A</b>   |  |
|   | <b>a.m</b> <sup>[2]</sup> - 4:1, 12:25<br><b>ability</b> <sup>[1]</sup> - 13:4<br><b>above-entitled</b> <sup>[1]</sup> - 13:14<br><b>above-mentioned</b> <sup>[1]</sup> - 13:12<br><b>added</b> <sup>[3]</sup> - 10:23, 11:4, 12:1<br><b>addition</b> <sup>[1]</sup> - 8:25<br><b>addressing</b> <sup>[1]</sup> - 7:25<br><b>aggressive</b> <sup>[1]</sup> - 9:17<br><b>AGGREY</b> <sup>[2]</sup> - 3:13, 4:19<br><b>Aggrey</b> <sup>[1]</sup> - 4:19<br><b>agree</b> <sup>[1]</sup> - 6:25<br><b>agreed</b> <sup>[1]</sup> - 6:25<br><b>agreement</b> <sup>[1]</sup> - 6:25<br><b>al</b> <sup>[3]</sup> - 1:10, 6:14, 6:15<br><b>ALDRIDGE</b> <sup>[1]</sup> - 2:20<br><b>allowed</b> <sup>[1]</sup> - 8:23<br><b>AND</b> <sup>[1]</sup> - 3:1<br><b>Andrew</b> <sup>[1]</sup> - 5:4<br><b>ANDREW</b> <sup>[1]</sup> - 3:9<br><b>answer</b> <sup>[1]</sup> - 12:3<br><b>answered</b> <sup>[1]</sup> - 7:10<br><b>appeal</b> <sup>[3]</sup> - 11:25, 12:9, 12:22<br><b>APPEARANCES</b> <sup>[1]</sup> - 2:1<br><b>appearances</b> <sup>[1]</sup> - 4:6<br><b>appearing</b> <sup>[1]</sup> - 13:7<br><b>appropriately</b> <sup>[1]</sup> - 11:19<br><b>argument</b> <sup>[1]</sup> - 13:5<br><b>assert</b> <sup>[1]</sup> - 7:3<br><b>ASSOCIATES</b> <sup>[1]</sup> - 3:1<br><b>attempt</b> <sup>[2]</sup> - 4:11, 6:22<br><b>attorney</b> <sup>[1]</sup> - 4:20<br><b>atw@hartwagner.com</b> <sup>[1]</sup> - 3:10<br><b>authority</b> <sup>[1]</sup> - 12:19<br><b>available</b> <sup>[1]</sup> - 12:22<br><b>Avenue</b> <sup>[4]</sup> - 1:24, 2:6, 2:10, 2:14 |  |
| <b>2</b>  |  | <b>C</b>   |
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